

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

David E. Schauer, Sibley County  
Attorney,

Complainant,  
vs.

ORDER OF DISMISSAL

Steve Gillaspie,

Respondent.

On October 10, 2006, David Schauer filed a Complaint with the Office of Administrative Hearings alleging that Steve Gillaspie violated Minn. Stat. § 211B.13 by distributing a notepad printed with a message urging voters to elect Gillaspie as a Sibley County Commissioner in the upcoming election.

The Chief Administrative Law Judge assigned the matter to the undersigned Administrative Law Judge on October 10, 2006, under Minn. Stat. § 211B.33. A copy of the Complaint was sent by U.S. Mail to the Respondent the same day.

After reviewing the Complaint and supporting materials, the Administrative Law Judge finds that the Complaint does not set forth a claim against the Respondent, that if proven, would constitute a violation of Minn. Stat. § 211B.13.

Based upon the Complaint and the supporting filings and for the reasons set out in the attached Memorandum,

**IT IS HEREBY ORDERED:**

That the Complaint filed by David Schauer against Steve Gillaspie is **DISMISSED.**

Dated: October 11, 2006

s/Kathleen D. Sheehy  
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KATHLEEN D. SHEEHY  
Administrative Law Judge

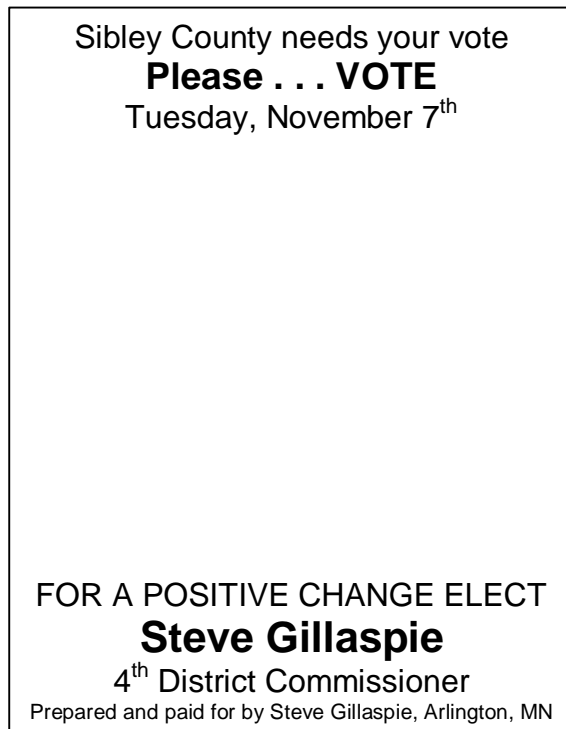
## NOTICE

Under Minn. Stat. § 211B.36, subd. 5 this order is the final decision in this matter and a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. § § 14.63 to 14.69.

## MEMORANDUM

Steve Gillaspie is running in the November 7, 2006, general election for Sibley County Commissioner in District 4. He left some campaign literature along with a notepad on a building site in Transit Township on September 24, 2006. The notepad was subsequently brought to the attention of the Sibley County Attorney, who filed this Complaint alleging a violation of Minn. Stat. § 211B.13.

There are about 45 sheets of paper in the notepad, which measures approximately four by seven inches. It is printed with the following message:



Minn. Stat. § 211B.13, subd. 1, provides as follows:

A person who willfully, directly or indirectly, advances, pays, gives, promises, or lends any money, food, liquor, clothing, entertainment, or other thing of monetary value, or who offers, promises, or endeavors to obtain any money, position, appointment, employment, or other valuable consideration, to or for a person, in

order to induce a voter to refrain from voting, or to vote in a particular way, at an election, is guilty of a felony.

The Complaint does not allege that this notepad had any particular monetary value, nor does it appear to be an object that has any obvious monetary value to voters.<sup>1</sup> Although it might have some incidental use for the purpose of making notes, the notepad itself is campaign literature, which is defined as “any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media.”<sup>2</sup>

Accordingly, the Complaint is dismissed. It fails to allege a prima facie violation of Minn. Stat. § 211B.13, subd. 1.

K.D.S.

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<sup>1</sup> See *Kalil v. Knutson*, Docket No. 3-6302-16119-CV (Order Denying Reconsideration, September 2, 2004), citing *United States v. Garcia*, 719 F.2d 99, 102 (5<sup>th</sup> Cir. 1983) (under federal statute prohibiting payment for votes, an assessment of the monetary worth of an item should be made from the perspective of a voter receiving the item, not the person offering it).

<sup>2</sup> Minn. Stat. § 211B.01, subd. 2.